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September 30, 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA COURIER

Marlene H. Dortch, Esq  
Secretary  
Federal Communications Commission  
c/o 236 Massachusetts Avenue, NE  
Suite 110  
Washington, DC 20002

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Re Petition for Further Extension of Divestiture Deadline  
respecting the **MICHELMAN DIVESTITURE TRUST** and  
Licenses held pursuant to.

Client No. 310397-00001

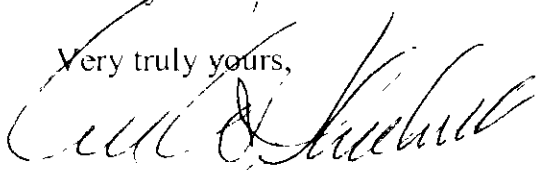
**WT Docket No. 01-35**

Dear Mrs. Dortch:

Transmitted herewith, on behalf of **DAVID MICHELMAN, TRUSTEE**, ("*Michelman*"), is an original and four (4) copies of an **PETITION FOR FURTHER EXTENSION OF DIVESTITURE DEADLINE** respecting the **MICHELMAN DIVESTITURE TRUST** and Licenses held pursuant to WT Docket No. 01-35

Should further information be desired in connection with this matter, kindly communicate directly with this office

Very truly yours,



Lee W. Shubert

Enclosures (5)

cc(w/1 enc): Russel H. Fox, Esq. --- *VIA E-MAIL*  
Mr. David Michelman --- *Ditto*  
Lauren Kravetz Patrich, Esq. --- *Ditto*  
Mr. Kevin T. Reidy --- *Ditto*

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LWS:dml

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**FEDERAL COMMUNICATIONS COMMISSION**  
**WASHINGTON, D.C. 20554**

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In the Matter of )  
 ) WT Docket No. 01-35  
**DAVID MICHELMAN, TRUSTEE** )  
**DAVID MICHELMAN DIVESTITURE TRUST** )  
To. Wireless Telecommunications Bureau

**PETITION FOR FURTHER  
EXTENSION OF DIVESTITURE DEADLINE**

David Michelman, Trustee ("*Trustee*") of the David Michelman Divestiture Trust (the "*Trust*"), by his attorneys, hereby respectfully requests a further 90 day extension of the duration of the Trust, which is currently due to expire on October 5, 2003. In support hereof, the following is respectfully shown

Explanatory details of the formation and history of the Trust were provided in Trustee's "Second Petition for Waiver and to Extend Divestiture Deadline" ("*Second Petition*") filed on April 4, 2003. (See Second Petition, page 2, which are incorporated herein by reference.) By successive letters on April 10, 2003 and July 31, 2003, the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau, has granted consecutive extensions of the Trust

Undersigned counsel for the Trust has been informed by the broker involved with the Trust's efforts to divest the spectrum that negotiations now are coming to fruition involving the conveyance of portions of the spectrum held by the Trust to a third party

buyer, and the remaining balance to AT&T Wireless, Inc. (“AWS”).<sup>1/</sup> This differs from the plan that existed at the time of the last extension request that was filed on behalf of the Trust.

The expectation at the time of filing the last request was that applications for assignment of the Trust’s Licenses to AWS would will be filed with the Commission by mid or late June 2003. In the interim, however, negotiations with a prospective third party purchaser developed, such negotiations thus deferred the discussions with AWS, as well as the submission of the previously referenced, and anticipated, Assignment Application involving AWS.

The present negotiations contemplate the divestiture of portions of the Trust’s spectrum to a third party purchaser, with the residue being acquired by AWS, subject to Commission consent. A letter of intent has been executed and delivered between the Trust and the third-party purchaser, but the full terms of a definitive purchase agreement remain under active negotiation at this time. The proposal plan is that an ultimate agreement with the third-party purchaser will serve, as well, as the template for an agreement involving the divestiture of the rest of the spectrum to AWS.

Since it would not be possible to secure Commission consent to the assignment of the Licenses and then consummate any assignment prior to the current expiration date of

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<sup>1/</sup> The licenses held by the Trust are KNLF221 (File No. 0000634714); KNLF256 (File No. 0000634728); and KNLF251 (File No. 0000634722) (hereafter, collectively, the “Licenses”).

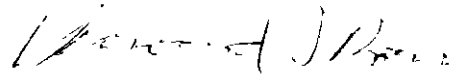
the Trust, the Trustee respectfully requests a further 90-day extension of the duration of the Trust for purposes of accomplishing the assignments and transfers of the Licenses to the third-party purchaser, as well as to AWS.

In this connection, Trustee further requests a waiver of the Commission's directive that the Licenses be transferred from the Trustee to the ultimate buyer within 180 days of the Trustee's acquisition of the Licenses. See *Public Notice*, "Wireless Telecommunications Bureau and International Bureau Grant Consent for Transfer of Control or Assignment of Licenses from Telecorp, PCS, Inc. to AT&T Wireless Services, Inc.," DA 02-331, 17 FCC Rcd 2383 (2002). The grant of such a waiver is clearly in the public interest in this instance. Said waiver will only serve to facilitate the transfer of the Licenses from the Trust to qualified buyers as soon as reasonably practicable, subject to the Commission's consent to such transfer. No reasonable alternative to the grant of the waiver exists since, without question, there would be no public interest benefit to allowing the Licenses to cancel when ready, willing and able buyers exist

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**WHEREFORE**, for good cause shown, it is respectfully requested that the duration of the David Michelman Divestiture Trust be extended to and including January 3, 2004, for the purpose of facilitating the orderly divestiture of the Licenses held by the Trust

Respectfully submitted  
**DAVID MICHELMAN, TRUSTEE**



By

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Howard J. Braun, Esq.  
Lee W Shubert, Esq.  
His Attorneys

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